IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

MONDAY, THE 12TH NOVEMBER 2007 / 21ST KARTHIKA 1929

RPFC.No. 30 of 2005(D)

MC.35/2003 of OF FAMILY COURT MANJERI
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REVISION PETITIONER/RESPONDENT

POCKER, AGED 35 YEARS,
S/O. SAIDALI, KALAVANKADAVATHU HOUSE,
THURAKAL, MANJERI P.O.

BY ADV. SRI.K.ANAND

RESPONDENTS: PETITIONER & STATE
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1. SABIRA, D/O. UNNIMUHAMMED,
ELAMBILASSERI HOUSE, THALPARA,
KAVALANUKKATTU, RESIDING AT POTTIKKATTU
(VIA) POOKKATTUPADAM, NILAMBUR TALUK.

2. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY ADV. SRI.DEVIDAS.U.K
PUBLIC PROSECUTOR SRI.C.M. NAZAR

THIS REV.PETITION(FAMILY COURT) HAVING BEEN FINALLY HEARD ON 6/11/2007, THE COURT ON 12-11-2007 PASSED THE FOLLOWING:

V. RAMKUMAR, J.

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R.P. (FC) NO. 30 of 2005

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Dated: 12th day of November 2007

ORDER

The revision petitioner who is the husband of the first respondent herein challenges the final order dated 18-08-2002 passed by the Family Court, Manjeri in M.C. No. 35 of 2003 directing the revision petitioner to pay a sum of Rs. 500/- by way of monthly maintenance to the respondent.

2. The proved facts of the case are the following:-

The revision petitioner married the first respondent as per Islamic rights and ceremonies on 11-6-1998. After the marriage the revision petitioner took his wife to his house at Manjeri where they lived together as man and wife for one month. The respondent was the 2nd wife of the revision petitioner whose first wife is unwell. He has two children in that wedlock. It was only after reaching the matrimonial home that the first respondent discovered that the revision petitioner had already married once and was having wife and two children. During the stay of the first respondent in the house of the revision petitioner for one month the revision petitioner had misappropriated most of her ornaments as well as money given at the

time of marriage. She was then sent to her house to fetch more money and ornaments. He never enquired about her thereafter. He visited her only once on 23-7-1998 and repeated his demand for money and ornaments. When she expressed her reluctance he wanted the gold chain which she was wearing. Finding that she was unwilling to part with her gold chain he assaulted her and went away. No doubt, the revision petitioner R.W.1 denied the alleged ill-treatment. But then no wife will leave the company of her husband just after one month of marriage unless there was valid reason for doing so. If the revision petitioner has been a loving and affectionate husband, it was not necessary for the wife to refuse to stay with him. His version that the first respondent on discovering that he was only a coolie worker was reluctant to stay with him is too good to be believed. I therefore, do not find any good ground to disagree with the Judge of the Family Court that the first respondent was justified in staying away from the revision petitioner and claiming separate maintenance.

3. As for the quantum of maintenance, the revision petitioner is doing the job of cutting fish for his employer and supplying them to hotels. He gets a daily wages of Rs. 75/-. Admittedly, he has got his first wife and two children born in that wedlock. He has to expend

money for his own personal needs as well. Considering all these, I am of the view that a sum of Rs. 450/- per month would be reasonable and proper maintenance for the first respondent. The quantum fixed by the court below is modified reducing the sum from Rs. 500/- per month to Rs. 450/- (Rupees four hundred and only) per month. The revision petitioner shall deposit the entire arrears within two months from today. He shall not, however, commit any default in paying the future maintenance.

In the result, this Revision is disposed of as above.

Sd/-V. RAMKUMAR,
(JUDGE)

/true copy/

P.A. to Judge

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